

### 3.10 Review/Instructional Activities

*The answers to the following questions and practice problems appear in Section 3.11.*

#### A. Questions

##### Question #1

Instructions: Review this list and obtain copies of the documents that will support your answers. Talk to the appropriate persons in your court to make sure you know the following:

- 1) How your judge wants you to adjudicate civil infractions.
- 2) Your court's fine schedule and, if there is no fine schedule, the criteria on which your court bases its fines.
- 3) The discretion your judge has given you with respect to imposing sanctions for civil infractions.
- 4) Whether you schedule admissions of responsibility with explanation for a specific date or accept them on a drop-in basis.
- 5) Whether your court has a policy allowing partial or deferred payments of fines and costs.
- 6) Your court's alternative sanctions (such as work programs or driver improvement school).
- 7) Your court's required response time (for example, the number of days within which a defendant must appear after a citation is issued).
- 8) The procedure for processing a citation received by your court (i.e., what staff are involved, where the records are kept).

##### Question #2

Mark each of the following statements as true (T) or false (F).

- \_\_\_\_\_ a. A magistrate who accepts an admission of responsibility with explanation may reduce the defendant's civil fine and court costs but may not reduce the number of violation points.
- \_\_\_\_\_ b. To accept admissions of responsibility with explanation, the magistrate must be authorized to do so by the district judge.
- \_\_\_\_\_ c. A clerk in a district court traffic bureau may accept and evaluate defendants' admissions of responsibility with explanation.
- \_\_\_\_\_ d. The defendant's next-door neighbor may, with the defendant's permission, contact the district court and request an appearance date for the defendant.
- \_\_\_\_\_ e. A magistrate may accept a defendant's admission of responsibility only when the defendant appears in person before the magistrate.

- \_\_\_\_\_ f. When the defendant appears in person to admit responsibility with explanation, the magistrate should read the citation and inquire if the defendant understands the charge.
- \_\_\_\_\_ g. A cited defendant who writes the district court asking what his or her options are has offered the court an admission of responsibility with explanation.
- \_\_\_\_\_ h. Michigan law has no limits to sanctions for civil traffic infractions and leaves it entirely to the discretion of the magistrate, with one exception: a magistrate may not send a defendant to jail.
- \_\_\_\_\_ i. Michigan law allows a defendant found responsible for a civil infraction to pay in installments.
- \_\_\_\_\_ j. The only sanctions that a magistrate may impose on a defendant found responsible for a civil infraction are a civil fine and costs.

### Question #3

Define an admission of responsibility with explanation:

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### B. Practice Problems

For the following problems, you are to consider yourself the magistrate in the situation and answer the questions appropriately. For several of these problems you will need to have your copy of the Michigan Vehicle Code available.

#### Practice Problem #1

You are evaluating mailed-in admissions of responsibility with explanation. The court file for one of your cases, involving failing to stop at a stop sign, contains no court copy of the citation. You do, however, have the copy that the defendant forwarded with her letter of explanation. In her letter, the defendant maintains that the stop sign she allegedly disobeyed was obscured by nearby trees. Can you decide this case without the court copy?

Check one answer: \_\_\_\_\_ Yes \_\_\_\_\_ No Explain your answer.

## Practice Problem #2

You are presiding over an in-person admission of responsibility with explanation. The charge is speeding, 55 miles per hour in a 40 miles per hour zone; radar was used to measure the defendant's speed. You have performed the following steps:

- Read the citation to the defendant;
- Listened to the defendant's explanation; and,
- Imposed sanctions.

Did you perform all necessary steps? \_\_\_\_\_ Yes \_\_\_\_\_ No

If your answer was "no," explain the step(s) you did not perform:

## Practice Problem #3

You are evaluating admissions of responsibility with explanation. The first case contains a letter of explanation and a copy of the citation signed by the defendant. The letter reads:

"On 6/1/02 at 11:30 a.m., I received a ticket (#24930) for failing to stop at the stop sign on Jolly and Main street. I am not guilty. I was traveling south on Jolly and I did stop at the stop sign. I know I came to a complete stop because a cat ran across the street in front of me at the intersection. I always stop for animals. Plus I always stop at intersections and count to three before going (I learned this in driver's education). Please dismiss this ticket because I am not guilty. "

What action should you take? Explain your answer.

#### Practice Problem #4

The next case file that you examine contains a signed copy admitting responsibility to the citation and the following letter of explanation:

“I am writing in reference to a ticket I received on July 1st for going straight at an intersection marked ‘Right Turn Only from 4-7 p.m.’ I did go straight and it was 5:00 p.m.

The officer who stopped me never told me what I was stopped for. When I tried to explain this was a new area and I had never been this way before, he became rude, abusive, and lectured me about reading signs. I want to know how I can let this person’s superiors know that he should not be dealing with the public. This was my first ticket and I am really upset with this officer. Please let his department know about him. If you dismiss tickets because of bad officers and good driving records, then please dismiss this one.”

What action should you take? Explain your answer.

#### Practice Problem #5

Your next case file contains a citation copy not signed by the defendant, and the following letter:

“Dear Magistrate,

On July 7, 2002 I received a ticket because the officer said I turned right on a red light. I was going to the store on the corner of 16th Avenue and Long Street when the cop pulled me over and gave me the ticket. Please dismiss this ticket.”

What action should you take? Explain your answer.

## Practice Problem #6

You are examining court files for civil infraction cases. One file shows that the defendant received a citation for making a prohibited left turn. The file shows that the defendant, several days after receiving the citation, contacted the court by telephone to arrange an in-person appearance to admit responsibility with explanation. The file also reflects that the court sent written confirmation of the appearance date to the defendant. The scheduled appearance date was last Friday, and the defendant did not appear. What action, if any, should you now take? Explain your answer.

## 3.11 Answer Key

### A. Answers to Questions

#### Answers to Question #2

- T a. True. MCL 257.745(4) allows the magistrate to mitigate any sanction he or she may impose under MCL 257.907. That section provides for civil fines, court costs, treatment, rehabilitation, or education programs, and does not address violation points. Under MCL 257.320a, the Secretary of State automatically assesses applicable violation points when it receives notice that the defendant was found responsible.
- T b. To accept admissions of responsibility with explanation, the magistrate must be authorized to do so by his or her district judge. MCL 600.8512(1) and (3).
- F c. The magistrate—but not the clerk—may accept admissions of responsibility with explanation if authorized by his or her district judge. MCL 600.8512(1) and (3).
- T d. MCL 257.745(3)(b) allows a defendant to contact the court “in person, by mail, by telephone, or by representation” to obtain an appearance date from the court. The statute does not limit “representation” to attorneys.
- F e. MCL 257.745(3)(a) allows a defendant the option of “appearing by mail” to admit responsibility with explanation. MCL 257.745(3)(b) also provides that a defendant may appear to admit responsibility with explanation “in person or by representation.”
- T f. Although no specific MVC provision contains this requirement, fundamental fairness requires that a defendant understand what charges he or she faces, and is made aware that any decision by the defendant to give up or waive rights be an informed one (e.g., the right to contest responsibility).
- F g. The defendant’s letter of inquiry did not admit responsibility for a civil infraction and therefore cannot be treated as an admission of responsibility with explanation under MCL 257.745(2)-(4).
- F h. MCL 257.907(2)-(3) and (5) restrict the magistrate’s discretion by limiting both civil fines and costs to \$100 each and by limiting the magistrate’s authority to impose sanctions to the extent authorized by the district judge. An exception to the \$100 limit exists for commercial vehicles and overweight vehicles. See MCL 257.724(3) and MCL 257.907(3).
- T i. MCL 257.907(2) grants permission “for payment of a civil fine and costs to be made within a specified period of time or in specified installments.”
- F j. MCL 257.907(4) and (5) allow a magistrate to order a defendant to complete a program of treatment, education, or rehabilitation to the extent authorized by the district judge.

### **Answer to Question #3**

An admission of responsibility with explanation is a procedure by which a person charged with a civil infraction admits committing the infraction but contends he or she should be punished less seriously because of the circumstances surrounding the incident.

### **B. Solutions to Practice Problems**

#### **Solution to Practice Problem #1**

**Answer:** No, not without seeing your chief judge first.

**Explanation:** The file in this case is not complete. MCL 257.728a(1) requires the police chief to “deposit the original of the citation with the court having jurisdiction over the offense not later than 3 days after the date of the citation, excluding Saturdays, Sundays, and legal holidays.” You should also ask other court employees to look for the missing original; if it cannot be found, you should discuss this case with your chief judge before adjudicating it.

#### **Solution to Practice Problem #2**

**Answer:** No.

**Explanation:** You did not identify the defendant, or the defendant’s representative, before proceeding. Therefore, you did not verify that the person appearing before you was either the one who received and signed the citation, or the cited person’s representative. In addition, you did not review the citation for material defects, such as no signature of the citing officer, before asking for the defendant’s explanation.

#### **Solution to Practice Problem #3**

**Answer:** Schedule an informal hearing and send the defendant and officer a notice of the hearing.

**Explanation:** The defendant said, “I am not guilty,” and therefore denied responsibility for the civil infraction. A defendant who contests responsibility must do so at an informal hearing unless he or she requests a formal hearing.

#### **Solution to Practice Problem #4**

**Answer:** Assess a civil fine and costs, and, if the chief judge approves this procedure, forward a copy of the defendant’s letter to the citing officer’s police department. Explain to the defendant what action was taken.

**Explanation:** The defendant admitted responsibility and offered two mitigating circumstances: (a) the citing officer’s conduct and (b) the defendant’s driving record. Neither is relevant to the facts of the charged violation, namely improper lane usage.

### Solution to Practice Problem #5

**Answer:** Schedule an informal hearing and send the defendant and officer a notice of the hearing.

**Explanation:** The defendant, by asking you to dismiss the citation, has denied responsibility for the charge of making an improper turn. In addition, the defendant failed to sign the citation. This is necessary to waive one's rights and admit responsibility with explanation. For those reasons, you may schedule an informal hearing or advise the defendant of his/her other options.

### Solution to Practice Problem #6

**Answer:** Enter a default judgment against the defendant.

**Explanation:** MCL 257.748 provides that the court shall enter a default judgment against a defendant who fails to appear at a scheduled appearance to admit responsibility with explanation under MCL 257.745(3)(b) or (4). See also MCR 4.101(E)(4). This rule also applies to a defendant's follow-up appearance, by court order, when his or her initial explanation by mail proved insufficient. MCL 257.745(4). Defaults are discussed further in Section 4.5.

*Before you go to the next unit, turn to the first section of this unit and review the instructions. Make sure you have completed each step before moving on to Unit 4.*